

SATURDAY, December 17, 1853.

Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday last was read and adopted.

Mr. Potter, chairman of the committee on the Judiciary, to whom was referred a bill to amend the third section of an act to raise a revenue by taxation, reported the same back to the Senate, and recommended its passage with the following amendment:

Strike out all after "in former," 19th line of the bill.

Mr. Potter also made the following report:

COMMITTEE ROOM, Dec. 5, 1853.

MR. PRESIDENT: The Judiciary committee have considered a bill to be entitled an act to ascertain all forfeited and escheated lands; and a majority of the committee have directed me to report, that as to escheats, they are of opinion that the existing laws are ample for the protection of the interests of the State, and to answer the requirements of the Constitution.—Hart. Dig., page 311.

The law, as it stands, provides for vesting in the State the title to the property of all persons who may die without heirs, or having devised their property; and also, where a person "may be absent for the term of seven years, and is not known to exist." And it is not believed that it would be either just or politic for the State to require the lands of aliens to be escheated. No emergency is known to exist which could demand such a step; and no danger is to be apprehended from allowing this matter to stand as it has from the commencement of the Republic.

In relation to forfeitures, the 4th section of the 13th article of the Constitution of the State provides, that "all fines, penalties, forfeitures and escheats, which have accrued to the Republic of Texas, under the Constitution and laws, shall accrue to the State of Texas; and the Legislature shall by law provide a method for determining what lands have been forfeited, or escheated." This section vested in the State all "fines, penalties, forfeitures and escheats," which had accrued to the Republic, and the latter part of the section contemplated that the Legislature should by law provide a method for determining what lands had been forfeited; but it fixes no time when such provision shall be made.

It is believed that the class of forfeitures referred to in this section, and such as were denounced by the 8th section of the General Provisions of the Constitution of the Republic, which is as

follows: "All persons who shall leave the country for the purpose of evading a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit all rights of citizenship, and such lands as they hold in the Republic."

The committee believe that the provisions of the bill are intended to extend much further than is contemplated by the section of the Constitution cited, and would open the door to attack by the government, through its officers, upon every land title in the country; and is intended especially to strike at grants made previous to November, 1835, to which there may have been some conditions *subsequent* attached.

A large portion of these lands are now held by parties who have purchased them in good faith, and many of our citizens have made their homes upon such lands, and under such titles; and to draw an appropriate simile from the impressive language used by the committee on Public Lands, a few days since, in their report on the bill to reduce into one act and to amend the several acts granting to actual settlers on vacant public domain pre-emption privileges, "*the committee believe that it is not correct policy for the State, at this late day, to hold over the heads of her citizens a threat of forfeiting their lands for some imagined act, or omission of the original grantee, which in most cases, if ever, transpired some eighteen years since, and in relation to which the government has never taken any step to ascertain and fix the forfeiture.*"

The legislation proposed is not believed to be founded in justice or policy, and especially where, as would be the case under this bill, there is no protection proposed to innocent purchasers, and no probability that the State will ever receive one dollar into her treasury in return for the expense which will fall upon her coffers and the harrassment of her citizens.

The records of the General Landoffice show, that over four thousand titles were issued by the former governments having jurisdiction over the territory now embraced in this State, previous to November, 14th, 1835, at which time the landoffices were closed by order of the provisional government of Texas; and in this estimate is not included a large amount of titles which are in the Landoffice, but are supposed to have been deposited there without proper authority of law therefor. And since the opening of the Landoffice under the Republic, about twenty-five thousand patents have been issued. A large majority of the citizens of the State are interested in the lands granted under these twenty-five thousand titles, either as original grantees, or pur-

chasers under such grantees; and under the provisions of the proposed bill every one of these parties would be liable to be dragged before the courts of the country, at the discretion of the various district attorneys of the State.

Had the necessary measures been adopted in the early days of the Republic, in order to ascertain and establish forfeitures, it might have then been justified on the ground of necessity, in order to supply a barren treasury and cripple the enemy; but now, when we have an overflowing treasury, and there is peace, quiet and plenty throughout our broad land, no excuse could be given for such legislation.

Entertaining these views, a majority of the committee have directed me to return the bill to the Senate, and recommend that it be rejected.

M. M. POTTER, Chairman.

Mr. Hart, chairman of the committee on Private Land Claims, to whom was referred the petitions of Mary Laseter and James Rust, reported back the following bills and recommended their passage:

A bill for the relief of Mary Laseter; read first time; and

A bill for the relief of James Rust; read first time.

Mr. Hart, of said committee, also reported back to the Senate the following bill:

A bill for the relief of Samuel Vesey and the heirs of W. R. Dickinson, deceased; read first time.

Mr. Doane, chairman of the committee on Indian Affairs, to whom was referred a bill concerning the Alabama Indians, reported back to the Senate a substitute therefor and recommended its adoption.

Mr. Paschal, chairman of the committee on Internal Improvements, to whom was referred a bill to amend an act to incorporate the Vicksburg and El Paso Railroad Company, recommended its passage without the fourth and last sections.

Mr. Holland, chairman of the committee on Education, to whom was referred a bill to incorporate the Tyler University, recommended its passage.

Mr. Keenan, chairman on the part of the Senate, and Mr. Palmer, chairman on the part of the House, of the committee of conference, to whom was referred a bill to incorporate the Galveston and Shreveport Telegraph Company, recommended that the Senate recede from its amendment to said bill.

Mr. Jowers made the following minority report:

COMMITTEE ROOM, Dec. 17, 1853.

To the Hon. M. D. K. TAYLOR,

President of the Senate:

SIR: The undersigned, disagreeing to the report of a majority of the committee on Public Debt recommending the opening of the auditorial board, for the reception and adjudicating certain claims, avails himself of his right to present the following reasons for the same:

The act of March 20, 1848, to provide for the ascertaining the debt of the late Republic of Texas, gave to all parties concerned near two years in which to present their claims; and in addition to the usual publication, that law was required to be published in four newspapers, for the term of six months—one in the city of Austin, also New Orleans, Washington City and New York—requiring all persons having any claim or demand for money, against the late Republic of Texas, to present the same to the Auditor and Comptroller of Public Accounts, within the time above specified. At the expiration of the limitation thus enacted, a supplementary law was passed extending the provisions of the first entitled act about eighteen months. The provisions of the law was complied with, and free, ample and full publicity thereby given of its existence. From the expiration of the supplemental law, the statute of limitations ran against all claims of the kind now sought to be relieved, and with its expiration the settled policy of the State began. No innovation of that policy has yet been made, save and except for claims for personal services, or for supplies. The claims now sought to be paid, cannot by implication be embraced under the provisions of that bill, nor is it believed by the undersigned that they possess one tithe of their merit.

The plea of ignorance of the laws should be of no avail. Although such a position is the argument on which the report of the majority appear to be based, and on which they seem to rely, it is no novel plea; but that it should be a good one, is novel indeed; and it is still more novel, indeed a matter of wonderment, that it should obtain with the law maker himself. Under such a plea, the law contemner and breaker would always go unwhipt of justice, the laws would be a farce, and its makers chief actors. It is, says a writer, "the first duty of all good governments to subserve the morals of its citizens." This is a sound political maxim which will not be contested; this considered, it is suggested that the adoption of the principle of ignorance of the laws as a valid consideration for relief, will have a marked

and decided tendency to bring about a direct opposite conclusion. The undersigned has as high an opinion of the morals of our people as any one; but he does not thereby see the justice or sound policy of placing temptation in their way. To grant relief upon such assertions is throwing temptation in the way, is a point it is thought that will not be contested; and should that be the case, it is easily to be seen that ere long the auditorial board will be opened far and wide for all *who, unfortunately do not take the papers.*

There is another proposition advanced by the majority which deserves especial notice. Not only those who were ignorant of the laws are included in the report, but those who *were endeavoring to do so, but were unable.* This latter proposition is as deadly a blow at the statute of limitations as the former is believed to be at the morals of the citizen. *Unable to do so*, in the common acceptance of the term, embraces a great deal.

The holder of a large claim for pay of the navy was unable to present his claim if he had willed otherwise; other large claimants, who have heretofore petitioned for relief, have made the same allegation; and if the two principles, one of ignorance and the other of inability, is to prevail, but little will it be believed be left outside of the auditorial door to feel the rigor of limitation statutes; and none will be found who will admit that he is liable to the language of the majority of the committee, as "those of our creditors who have so wantonly" held out against our laws, and denounced them as being unjust and unwise, the more particularly as they will, in military parlance, have to "cry for quarters and ask for relief."

There is still another conclusion that forces itself prominently forward as intimately connected with the proposition advanced. By the terms of the bill known as the Pearce Bill, five million of dollars are yet withheld from Texas, and under the decision of the Attorney-General of the United States, legislation is rendered necessary by the United States Congress. It will not be contested that the passage of the bill asked to be passed by the committee will be the herald of many more. Were it otherwise, the Legislature would be guilty of partial legislation. The claims thus permitted to overleap the statute of limitations, even if confined to the bill in question, and the admission of the committee, opens a question now considered closed; and, as a matter of course, gives "aid and comfort" to those who have heretofore held out against the oft-repeated resolves of the State, and will incite them to renewed vigor and activity, for these claims, when audited, take their place in the first class debt. Hope will be revived in

those who deem "our laws unjust and unwise," and the cry for relief and quarter, which the majority of the committee by implication exact as the price of future concession, will be withheld, and under the influence of exalted hopes our just demands for the modification of an unjust proviso will be successfully resisted.

For the reason, then, that the undersigned does not admit the validity of the plea of ignorance, the plea of inability, and for the further reason that it is the first inroad now attempted to be made upon a policy settled by frequent acts of legislation, and endorsed by the people, that it is unwise legislation, and throwing temptation in the way of the citizen, he feels impelled, by a high sense of duty, to report against the claim of the petitioner and in opposition to the bill reported by the majority of the committee.

W. G. W. JOWERS,
One of the Public Debt Committee.

Mr. Potter, chairman of the committee on the Judiciary, made the following report:

The Judiciary committee have considered a bill to create the office of State Geologist, and have directed me to report a substitute for the bill referred, and recommend the adoption of the substitute and the passage of the bill. The committee believe that it is of great importance to the State that some step should be taken in order to have an immediate examination and report upon the mineral resources of the State, and the nature and properties of the various soils embraced within its limits, and that the proposed bill will effect the desired object.

Mr. Doane offered the following resolution:

Resolved, With the concurrence of the House of Representatives, that the two houses will stand adjourned from the 21st inst. until the 2d day of January next.

Mr. Durst offered the following joint resolution as a substitute for Mr. Doane's resolution:

Be it resolved by the Legislature of the State of Texas, That when the Legislature shall have adjourned on the 21st day of December, 1853, that said adjournment shall be until the first Monday in January, A. D. 1854.

On motion of Mr. Hart, the resolution and substitute were postponed until Tuesday, 20th inst.

Mr. Hart introduced a bill supplementary to an act authorizing the Commissioner of the General Landoffice to appoint additional draftsmen and assistant clerks in his department, and to

fix the salaries of the Commissioner and all under his control ; read first time.

On motion of Mr. Hart, the rule was suspended, bill read second time and ordered to be engrossed.

On motion of Mr. Hart, the rule was further suspended, bill read third time and passed.

Mr. Bryan offered the following resolution :

Resolved, That the Senate, with the concurrence of the House, will adjourn on the 24th inst. to the 2d day of January next.

Mr. Taylor moved to lay the resolution on the table ; lost by the following vote :

YEAS—Messrs. Burks, Durst, Guinn, Hart, Lott, McAnelly, Newman, Scott, Taylor, Weatherford, Whitaker and Wren—12.

NAYS—Messrs. Allen, Bryan, Doane, Edwards, Gage, Hill, Jowers, Keenan, Kyle, Martin, McDade, Millican, Paschal, Pedigo, Potter, Scarborough and Superviele—17.

On motion of Mr. Jowers, the resolution was amended by striking out "24th," and inserting "23d."

Mr. Taylor moved to amend, by striking out "2d day of January next," and inserting "Monday, 26th inst.," lost by the following vote :

YEAS—Messrs. Burks, Gage, Guinn, Hart, Newman, Scott, Taylor, Weatherford, Whitaker and Wren—10.

NAYS—Messrs. Allen, Bryan, Doane, Durst, Edwards, Hill, Holland, Jowers, Keenan, Kyle, Lott, Martin, McAnelly, McDade, Millican, Paschal, Pedigo, Potter, Scarborough and Superviele—20.

Mr. Burks moved to indefinitely postpone the resolution ; lost by the following vote :

YEAS—Messrs. Burks, Durst, Guinn, Hart, Martin, Newman, Scott, Taylor, Weatherford, Whitaker and Wren—11.

NAYS—Messrs. Allen, Bryan, Doane, Gage, Jowers, Keenan, Kyle, Lott, McAnelly, McDade, Millican, Paschal, Potter, Scarborough and Superviele—15.

Mr. Gage moved to lay the resolution on the table until the first day of January next ; lost.

Mr. Taylor moved to amend, by striking out "2d day of January," and inserting "15th day of February ;" upon which the yeas and nays were as follows :

YEAS—Messrs. Burks, Hart, Jowers, Lott, McAnelly, McDade, Scott, Taylor, Weatherford and Whitaker—10.

NAYS—Messrs. Allen, Bryan, Doane, Durst, Edwards, Gage, Guinn, Hart, Holland, Keenan, Kyle, Martin, Millican, New-

man, Paschal, Pedigo, Potter, Scarborough and Superviele—19; lost.

On motion of Mr. Potter, the vote rejecting the amendment offered by Mr. Taylor, proposing to strike out "2d day of January next, and to insert "26th day of December," was reconsidered.

Mr. Bryan offered the following as a substitute for the resolution :

Resolved, That the Senate will adjourn from the 23d inst. to the 27th instant; adopted.

Mr. Jowers made the following report :

The select committee, to whom was referred a bill supplementary to an act to establish the New Orleans, Texas and Pacific Railway Company, for the extension of the New Orleans, Algiers and Opelousas Railway through Texas, approved February 16th, 1852, and also a bill to incorporate the Tyler and Dallas Railroad Company, together with various amendments, have had the same under consideration, and I am instructed to report the two bills above specified back to the Senate, and further to state that the committee have rejected all the amendments.

Mr. Hart introduced a bill for the relief of David B. Graham and S. M. Rainer; read first time.

ORDERS OF THE DAY.

A bill for the relief of John Tanner; read third time, and, on motion of Mr. Edwards, laid on the table.

Mr. Hart moved that the Senate adjourn until Monday morning at 10 o'clock; carried by the following vote :

YEAS—Messrs. Allen, Doane, Durst, Edwards, Guinn, Hart, Hill, Holland, Jowers, Keenan, Kyle, Lott, Martin, McAnelly, McDade, Paschal, Pedigo, Scarborough and Superviele—19.

NAYS—Messrs. Bryan, Gage, Millican, Newman, Potter, Scott, Taylor, Weatherford and Whitaker—9.

MONDAY, December 19, 1853.

Senate met pursuant to adjournment—prayer by the Rev. Mr. Craig—roll called—quorum present.

The journal of Saturday was read and adopted.

Mr. Weatherford presented the petition of Louis Edmondson for relief; referred to the committee on State Affairs.

Mr. Bryan presented the petition of J. Hamilton, asking for relief; referred to the committee on Public Debt.